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Attorneys for Plaintiff
LIFE INSURANCE COMPANY
OF NORTH AMERICA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LIFE INSURANCE COMPANY OF
NORTH AMERICA,

Plaintiff,

v.

KATHY CLEVELAND, ANTHONY
PETRU AS TRUSTEE OF THE
MICHAEL A. PETRU TRUST dated
11/20/02 and DOES 1 - 10,

Defendants.

CASE NO. CV08-05052 SI

**[PROPOSED] STIPULATED JUDGMENT
IN INTERPLEADER**

Upon reading the Stipulation and Order for Entry of Judgment in Interpleader submitted by and between plaintiff Life Insurance Company of North America ("LINA") and defendants Anthony Petru as Trustee of the Michael A. Petru Trust dated 11/20/02 ("Defendant Trustee") and Kathy Cleveland ("Defendant Cleveland") (hereinafter both defendants referred to collectively as "Defendants") (hereinafter Defendants and LINA referred to collectively as "the Parties"), and it appearing that LINA has properly brought this action in interpleader, that this Court has jurisdiction of the parties and of the subject herein, and that good cause appearing therefore,

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

2 1. That LINA properly filed its complaint in interpleader and for declaratory relief
3 and this is a proper cause for interpleader by and between the Parties and that Defendants hereby
4 consent to the jurisdiction of this Court in this matter;

5 2. That on or about November 1, 2005, LINA issued group term life insurance policy
6 no. FLX 50971 ("the First Policy"), to Defendant Trustee of the National Consumer Insurance
7 Trust. The Permanente Medical Group subscribed to this group policy to provide life insurance
8 benefits to eligible plan participants. Decedent was a participant. The death benefit under the
9 First Policy was \$367,308.00. In addition to policy no. FLX 50971, LINA also issued three other
10 policies to Defendant Trustee of the National Consumer Insurance Trust. Those policies numbers
11 are FLX 51017, FLX 51018 and FLX 51019 with each of these three policies providing an
12 identical death benefit to the First Policy;

13 3. That, by reason of the death of Michael Petru ("Decedent"), on or about March
14 26, 2008, the death benefits became due and owing;

15 4. That on or about August 8, 2008, Defendant Trustee, submitted a claim for 100%
16 of the death benefits;

17 5. That on or about August 19, 2008, Defendant Cleveland submitted a claim for 25%
18 of the death benefit which LINA understood to be payable under the First Policy;

19 6. That in view of the competing claims, LINA filed the interpleader action and
20 deposited the sum of \$92,239.48, which is 25% of the First Policy.

21 7. That after filing the interpleader action and depositing the sums of \$92,239.48
22 ("the Benefit Proceeds"), with the Court, LINA proceeded to pay the undisputed portion of the
23 proceeds to Defendant Trustee on or about November 5, 2008, and consisting of the balance not
24 deposited with the court under the First Policy (\$276,672.96). Defendant Trustee was also paid
25 \$368,897.28 for each of the remaining three policies;

26 8. That, on or about November 13, after paying the remaining death benefits to
27 Defendant Trustee, LINA learned that 25% of the death benefit for all four policies should be the
28

1 proper amount in dispute based on Defendant Cleveland's claim for 25% of the value of all four
2 policies, not just 25% of the death benefit under the First Policy;

3 9. That after becoming aware of the proper amount to be deposited in the
4 interpleader, LINA contacted Defendant Trustee requesting return of the overpayment so that
5 these funds could be deposited with the court in the interpleader action but said overpayment was
6 not returned;

7 10. That thereafter Defendant Trustee and Defendant Cleveland entered into
8 negotiations as to the distribution of the Benefit Proceeds under all four policies, and that having
9 reached an agreement between themselves as to the distribution of the Benefit Proceeds under
10 policies nos. FLX 50971, FLX 51017, FLX 51018 and FLX 51019, fully and forever release,
11 discharge, and acquit LINA its predecessors, successors, affiliates, parent corporation, officers
12 and agents are from any liability of any kind or nature whatsoever under policies nos. FLX 50971,
13 FLX 51017, FLX 51018 and FLX 51019 or by reason of the death of the decedent as to any and
14 all claims, charges, demands, or otherwise that exist now or may arise at any time in the future;

15 11. That LINA is entitled to fees and costs in the amount of \$15,161.65 payable from
16 the Benefit Proceeds and said payment shall be made payable to "Life Insurance Company of
17 North America," C/O Dennis J. Rhodes, Esq., WILSON, ELSER, MOSKOWITZ, EDELMAN
18 & DICKER LLP, 525 Market Street, 17th Floor, San Francisco, CA 04105;

19 12. That Defendant Cleveland is entitled to the balance of the Benefit Proceeds and all
20 accrued interest, the total value of which as of August 24, 2009 equals \$77,146.56: This amount
21 and any interest accrued after August 24, 2009, shall be made payable to "Kathy Cleveland" C/O
22 Jenny Wald, Esq., HERSH FAMILY LAW PRACTICE, 1 Maritime Plaza, Suite 1040, San
23 Francisco, CA 94111, Tel: (415) 788-2200; and
24

25 13. That Defendants and/or their heirs, successors, predecessors, assigns, are
26 permanently enjoined from instituting or prosecuting any proceeding in any state or United
27 States court against LINA, its predecessors, successors, subsidiaries, affiliates, parent
28

1 corporation, officers, employees and/or agents with respect to the Benefit Proceeds due under the
2 Policies.

3
4 Dated: _____

By: _____



HONORABLE SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Life Insurance Company of North America v. Kathy Cleveland, et al.
USDC NDCA Case #CV09-05052 SI

I am over the age of eighteen years and am not a party to the within cause. I am employed in the City and County of San Francisco, California and my business address are 525 Market Street, 17th Floor, and San Francisco, California 94105-2725.

On this date I served the following document(s):

[PROPOSED] STIPULATED JUDGMENT IN INTERPLEADER

on the part(y)(ies) identified below, through their attorneys of record, by placing true copies thereof in sealed envelopes addressed as shown below by the following means of service:

→ : **By First Class Mail** -- I caused each such envelope, with first class postage thereon fully prepaid, to be deposited in a recognized place of deposit of the U.S. Mail in San Francisco, California, for collection to the office of the addressee following ordinary business practices.

: **By Personal Service** -- I caused each such envelope to be given to a courier messenger who personally delivered each such envelope to the office of the address.

: **By Overnight Courier** -- I caused each such envelope to be given to an overnight mail service at San Francisco, California, to be hand delivered to the addressee on the next business day.

: **Facsimile** -- (Only where permitted. Must consult CCP §1012.5 and California Rules of Court 2001-2011. Also consult FRCP Rule 5(e). Not currently authorized in N.D.CA.)

Jennifer Wald, Esq.
HERSH FAMILY LAW PRACTICE
One Maritime Plaza, Suite 1040
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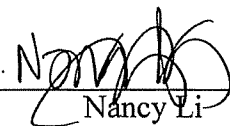
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Attorneys for Defendant
KATHY CLEVELAND

Attorneys for Defendant
**ANTHONY S. PETRU AS TRUSTEE OF
THE MICHAEL A. PETRU TRUST DATED
11/20/02**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED on **September 4, 2009**, at San Francisco, California.



Nancy Li